

[4TH SESS.]

PROVINCE LAWS. — 1775-76.

[REVOLUTIONARY PERIOD — "COLONY."]

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CHAPTER 21.

AN ACT FOR THE EXECUTING IN THE COLONY OF THE MASSACHUSETTS BAY, IN NEW ENGLAND, ONE RESOLVE OF THE AMERICAN CONGRESS, DATED MARCH [FOURTEENTH] [14], [ONE THOUSAND SEVEN HUNDRED AND SEVENTY-SIX] [1776], RECOMMENDING THE DISARMING SUCH PERSONS AS ARE NOTORIOUSLY DISAFFECTED TO THE CAUSE OF AMERICA, OR WHO REFUSE TO ASSOCIATE TO DEFEND BY ARMS THE UNITED AMERICAN COLONIES AGAINST THE HOSTILE ATTEMPTS OF THE BRITISH FLEETS AND ARMIES; AND FOR THE RESTRAINING AND PUNISHING PERSONS WHO ARE IMIMICAL TO THE RIGHTS AND LIBERTIES OF THE SAID UNITED COLONIES, AND FOR DIRECTING THE PROCEEDINGS THEREIN.

WHEREAS, on the fourteenth of March, one thousand seven hundred ^{Preamble.} and seventy-six, a certain resolve was made and passed by the American Congress, of the following tenor; viz^[t],— “Resolved, That it be recommended to the several assemblies, conventions and councils, or committees of safety, of the United Colonies, immediately to cause all persons to be disarmed within their respective colonies who are notoriously disaffected to the cause of America, or who have not associated, and refuse to associate, to defend by arms these United Colonies against the hostile attempts of the British fleets and armies; and to apply the arms taken from such persons, in each respective colony, in the first place, to the arming of the continental troops raised in said colony, in the next, to the arming such troops as are raised by the colony for its own defence, and the residue to be applied to the arming the associators; that their arms, when taken, be appr[*a*]i[*z*][*s*]ed by indifferent persons, and such as are applied to the arming Continental troops be paid for by Congress; and the residue by the respective assemblies, conventions or councils, or committees of safety.”—

Be it therefore enacted by the Council and House of Representatives in General Court assembled, and by the authority of the same,

[SECT. 1.] That every male person above sixteen years of age, resident in any town or place in this colony, who shall neglect or refuse to subscribe a printed or written declaration, of the form and tenor hereinafter prescribed, upon being required thereto by the committee of correspondence, inspection and safety, for the town or place in which he dwells, or any one of them, shall be disarmed, and have taken from him, in manner hereafter directed, all such arms, ammunition and warlike implements, as, by the strictest search, can be found in his possession or belonging to him: which declaration shall be in the form and words following; viz^[t],—

We, the subscribers, do each of us, severally, for ourselves, profess, testify^[t] and declare, before God and the world, that we verily believe that the war, resistance and opposition in which the United American Colonies are now engaged against the fleets and armies of Great Britain, is, on the part of the said colonies, just and necessary; and we do hereby severally promise, covenant and engage, to and with every person of this colony who has or shall subscribe this declaration, or another of the same tenor and words, that we will not, during the said war, directly or indirectly, in any ways, aid, abet^[t], or assist any of the naval or land forces of the king of Great Brit^[t]ain, or any employed by him, or supply them with any kind of provisions, military or naval stores, or hold any correspondence with, or communicate any intel-

All persons who refuse the test, to be disarmed.

The form of the test.

ligence to, any of the officers, soldiers or mar[r]iners belonging to the said army or navy, or enlist, or procure any others to enlist, into the land or sea service of Great Brit[t]ain, or take up or bear arms against this or either of the United Colonies, or undertake to pilot any of the vessels belonging to the said navy, or in any other way aid or assist them; but on the contrary, according to our best power and abilities, will defend by arms the United American Colonies, and every part thereof, against every hostile attempt of the fleets and armies in the service of Great Britain, or any of them, according to the require[ez]ments and directions of the laws of this colony that now are, or may hereafter be, provided for the regulation of the militia thereof.

And be it further enacted by the authority aforesaid,

Mode of proceeding against delinquents; [SECT. 2.] That the committee of correspondence, inspection and safety, in each and every town and place in this colony, or some one member of such committee, shall, without delay, tender the said declaration to every male person in their respective town and places, above the age of sixteen years, requiring them severally to subscribe the same, with his name or sign, in his or their presence; and if any one shall refuse or neglect so to do for the space of twenty-four hours after such tender is made, the said committee, or some one of them, shall forthwith give information of such refusal or neglect to some justice of the peace for the county in which such delinquent dwells: and the justice to whom such information is given shall forthwith make his warrant, directed to the sher[r]iff of the same county, or his deputy, or one of the constables of the town in which such supposed delinquent hath his usual place of abode, or any indifferent person, by name, requiring him forthwith to take the body of such delinquent and him bring before the said justice, to answer, to such information, and to shew cause, if any he hath, why he should not be disarmed, and have taken from him all his arms, ammunition and warlike implements; and in case it shall be made to appear to the said justice that the said information is true, and he should not shew any sufficient cause why he should not forthwith be disarmed, &c., then the said justice shall make his warrant, directed to some proper person, requiring him, without delay, to disarm the said delinquent, and take from him all his arms, ammunition and warlike implements; and in case such delinquent shall refuse to resign and give up all his arms, ammunition and warlike implements, the person to whom the said warrant is directed shall have power, after demanding admission, to enter the dwelling-house, or any other place belonging to the delinquent, where he may have reason to suspect such arms are concealed, and make strict and diligent search for the articles aforesaid; and in case he shall find any of the said articles, he shall take them, and immediately carry and deliver them to the justice who made the said warrant; which justice is hereby required to receive them and to appoint some indifferent and judicious person or persons to appraise the same; and the said justice shall keep a true account of all such arms, ammunition and accoutrements, the person or persons they were taken from, and the sum or sums they were appraised at, and shall return a true account thereof into the secretary's office, as soon as may be, and shall keep the said arms, &c., safely to be disposed of and paid for as the general court shall order; and if the person to whom the warrant is directed shall meet with resistance, or shall have reason to apprehend that he shall meet with resistance, in the execution of the said warrant, then he shall give information thereof to the justice of the peace who issued the said warrant, who, if he shall judge it needful for carrying such warrant into execution,

shall go in person to some military officer in the same county and require him immediately to raise such a number of the militia as the said justice shall judge necessary, and the said justice shall proceed in person, with the said militia and the person to whom the said warrant is directed, and in the most prudent way he can, cause the delinquent to be disarmed, and all the articles aforesaid to be taken from him, and appraised and retained in manner as is above directed.

[SECT. 3.] And in case it shall be made to appear to any justice of the peace that there is reason to suppose that any of the arms, ammunition, or warlike implements, belonging to any person who shall refuse or delay, as abovesaid, to subscribe the said declaration, are concealed in any dwelling-house or other place not belonging to such delinquent, such justice shall have power and is hereby directed to make his warrant to some proper person, requiring him to make diligent search in such suspected place or places, to be particularly described or mentioned in such warrant, for the articles aforesaid; and in case they shall be found, such proceedings shall be thereupon had, touching the same, as is above prescribed when they are in the actual possession of the delinquent, aforesaid; and in case of resistance or opposition made to the execution of such warrant, the like proceedings shall thereupon be had as are above directed when resistance is made to the searching for or taking such articles when in the actual possession of such delinquent: and all officers and soldiers of the militia are hereby directed to obey and observe such direction as shall be given by such justice of the peace in the premis[es].

[SECT. 4.] And every person who shall refuse or neglect to subscribe the said declaration, having had the same tendered to him as [abovesaid] [aforesaid], in case he holds any office, civil or military, in this colony, shall be deem[e]d and adjudged, *ipso facto*, disqualified to exercise any such office; and if a town officer, the town he belongs to shall, and they hereby are, empowered and required to, proceed to make choice of some fit person to serve in such office in his room; and in case he does not at present hold any such offices, he shall be deemed totally disqual[1]ified to be chosen or appointed, or to hold any such office, till some further order of the general assembly. And in case any such person so refusing or neglecting shall be chosen or appointed to any office, civil or military, all acts and doings of such person in the execution of any such office, shall be deem[e]d and held to be null and void and of none effect; and no person so refusing or neglecting, shall be permitted to give his vote in the choice of any person to serve as representative in the general court or assembly, or in the choice of any military, town, or county, officer, until[1] he shall be restored, by order of the general court, to the privile[d]ges of a good and free member of this community. And no settled minister or gramm[e][u]r school master, who shall refuse or neglect to sign said declaration, shall be intit[u]led, by the laws of this colony, to demand or recover any sal[1]ary or reward for any time or service spent or performed in their respective offices, from and after such refusal or neglect, until[1] they shall subscribe such declaration; and if any of the governors of Harvard College shall refuse to sign the declaration aforesaid, they shall be thereby disqualified to receive any salaries or grants of the general assembly for services done after their refusal as aforesaid.

And be it further enacted by the authority aforesaid,

[SECT. 5.] That if any person or persons resident in this colony, shall, during the war aforesaid, directly or indirectly, supply the army or navy of the king of Great Brit[t]ain, or any employed by him,

—who are dis-
qualified from
holding any
office in the
colony;

—and from
voting for a
representative,
or any military,
town, or county,
officer;

—and from
receiving any
salaries or
grants.

Persons who
shall supply the
army or navy,
&c.,

with provisions, military or naval stores, or shall give any intelligence to the officers, soldiers or mariners belonging to said army or navy, or shall enlist, or [shall] procure any other person or persons to enlist into the service of the said army or navy, or shall take up or bear arms against this or any other of the United Colonies, or shall

—shall forfeit
their estates and
be imprisoned,

—not exceeding
three years;

—and be dis-
franchised.

undertake to pilot any of the vessels belonging to the said navy, or in any other way shall aid or assist the said army or navy, every person so offending, and being thereof duly convicted before the superio[u]r court of judicature, &c., shall forfeit all his estate, which shall be accordingly seized and entered upon, by the order of said court, for the use of this colony; and such person shall be further punished by imprisonment, in any of the g[o]a[o]ls in this colony, at the discretion of the said court, for a term not exceeding three years; and every person so convicted shall be totally disqualif[i]ed to hold or exercise any office, civil or military, and shall not be permitted to give his vote for any representative to serve in the general court or assembly, or in any town meeting for the choice of any town or county officer, or for any military officer, until[1] he shall be restored, by order of the general court, to the privile[d]ges of a good and free member of this community.

And be it further enacted,

Mode of pro-
ceeding against
persons inimical
to the liberties
of the United
Colonies.

[SECT. 6.] That, on complaint being made by the selectmen, or committee of correspondence, inspection and safety, or by any sheriff, deputy sheriff, constable, grand-jurymen or tythingmen, in any county in this colony, to any justice of the peace for the same county, against any person or persons dwelling or residing in such town or county, that he or they are inimical to the liberties of this colony and the other United Colonies in America, the said justice is hereby empowered to issue his warrant to the sher[r]iff of the county, his deputy, or to the constables of the town wherein such person or persons dwell, requiring him to apprehend and bring before him such person or persons, to be examined; and if on examination, it shall appear to the said justice that he or they are inimical and dangerous to the liberties of this colony and the other United Colonies in America, the said justice shall require such person or persons to find sureties for the peace and good behaviour, as also for his appearance at the next court of general sessions of the peace, or superio[u]r court of judicature, &c., to be holden in said county, at his discretion; and, for want of sufficient sureties, shall commit him to the common g[o]a[o]l in the said county, there to be held until the next sitting of one of the said courts, as the said justice in his said warrant shall order, and until[1] he be discharged by such court, or otherwise by order of law; and in case such person or persons shall, before either of the said courts, be found by the jury, upon trial, to be inimical or dangerous to the liberties of this colony or the other United Colonies, the court shall order that he be immediately disarmed; and shall make their warrant, directed to some proper officer, requiring him to seize and take all the arms, ammunition and warlike implements belonging to such criminal, and commit the same to the clerk of the court, who shall proceed with such arms in the same manner as a justice of the peace, before, in this act, is directed to do with the arms taken from any person for refusal or neglect to subscribe the declaration in this act prescribed; and shall require him to find sufficient sureties for the peace and good behaviour for any longer time, at their discretion, and on default thereof, shall commit him to the common g[o]a[o]l of the county until he comply with such order; and shall order the person so convicted, to pay the cost of prosecution, and to be committed [un]til[1] he pay the

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same; and every person so convicted shall be totally disqual[li]ed to hold any office, civil or military, or to give his vote for any representative to serve in the general court or assembly, or for any military, town, or county, officer, until[li] such person or persons shall be restored, by the general court, to the privile[d]ges of a good and free member of this community.

And whereas it may have hap[p]ened that some towns and unincorporated plantations in this colony may be destitute of a committee of correspondence, inspection and safety, by reason of their not having seasonably received the resolves of this court directing thereto, or from some other cause; therefore, —

Be it further enacted by the authority aforesaid,

[SECT. 7.] That in all such towns and places as did not, at their annual meeting in March last, agre[e]able to the resolves of this court, choose such committee, the committee of correspondence, inspection or safety, in every such town and place, last chosen before the annual meeting in March last, are hereby directed and impowered to continue acting in such capacity, and shall perform the business required in this act of a committee of correspondence, inspection and safety, [un]til[li] a new committee shall be chosen in their respective towns and places; and where no such committees have heretofore been chosen, the selectmen shall perform the same; and all such towns and places are directed and impowered to call meetings and choose such committee as soon as may be.

In all such towns as did not choose a committee of correspondence, &c., in March last, the committee formerly chosen are impowered to act until a new committee is chosen.

Provided, nevertheless, —

And be it further enacted,

[SECT. 8.] That nothing in this act shall be construed to extend to the disarming, disqualifying, or any way punishing any of the denomination of Christians called Quakers, for not signing the aforesaid declaration, in case, upon being required to sign the following declaration, and having the same tendered to him, shall not refuse or neglect to subscribe it; viz[li]. —

Quakers not to be disarmed for not signing, in case, &c.

We, the subscribers, do solemnly promise and engage that we will not aid, assist or abet[t] the land or naval forces of Great Brit[t]ain, in the war now carrying on against the United Colonies of America, nor supply them with any kind of provisions, naval or warlike stores, nor hold any correspondence with, or communicate any intelligence to, any of the officers, soldiers or mariners, of said army or navy.

—and the committees are required in like manner to tender the last preceding declaration to each of the said denomination of Christians called Quakers, and require them to sign the same, if any such there are in their respective towns or places.

And be it further enacted by the authority aforesaid,

[SECT. 9.] That no person who hath voluntarily left his town or usual place of abo[a]d[e] and fled to the Brit[t]ish fleet or army, while stationed in Boston or elsewhere, or willingly supplied said fleet or army with provisions or stores of any kind, since the nineteenth of April, one thousand seven hundred and seventy-five, communicated any intelligence to, or held any criminal correspondence with, any of the officers, soldiers or mariners, of said fleet or army, or that hath voluntarily entered into, or signed, any association to join or assist said army or navy, or in any way voluntarily aided, assisted or abetted the same, shall be permitted to sign either of the declarations aforesaid, and shall be totally disqualified to hold or exercise, in this colony, any office, civil or military, or to give his vote for any representative to

Certain persons not permitted to sign the declaration;

—and disqual- fied to hold any office and from voting for a representative

or for any town, county, or military officer, serve in the general court of this colony, or for any town, county, or military officer; and shall have taken from him all his arms, ammunition and warlike implements, in the same manner, and the like proceedings shall be thereon had, as is hereinbefore directed for disarming those who refuse or neglect to sign said declaration.

[SECT. 10.] And nothing in this act shall be construed to entitle any persons who may have been heretofore disarmed by any of the committees of correspondence, inspection or safety, in any town or place in this colony, to receive their arms again but by the order of such committee or the general court. [Passed May 1, 1776]

CHAPTER 22.

AN ACT FOR ESTABLISHING THE STILE OF COMMISSIONS WHICH SHALL HEREAFTER BE ISSUED, AND FOR ALTERING THE STILE OF WRITS, PROCESSES, AND ALL LAW PROCEEDINGS, WITHIN THIS COLONY; AND FOR DIRECTING HOW RECOGNIZANC[E]S TO THE USE OF THIS GOVERNMENT, SHALL, FOR THE FUTURE, BE TAKEN AND PROSECUTED.

Preamble.

WHEREAS the petitions of the United Colonies, to George the Third, king of Great Brit[t]ain, for the redress of great and manifest gr[i]ev[e]ances, have not only been rejected but treated with scorn and contempt, and their opposition to designs evidently formed to reduce them to a state of servile subjection, and their necessary defence against hostile forces actually employed to subdue them, have been declar[e]d rebellion; and whereas an unjust war has been commenc[e]d against them, which the commanders of Brit[t]ish fleets and armies have prosecuted, and still continue to prosecute, with their utmost vigour, in cruel manners, and have directed their veng[e]ance principally against this colony, wasting, spoiling and destroying the country, burning houses and defenceless towns, and exposing the helpless inhabitants to every mis[s]ery, — by which inhumane and barbarous treatment, by the commandment of George the Third, king of Great Brit[t]ain, &c., the people of this colony consider themselves greatly injur[e]d, and have been obli[d]ged to have recourse to arms to repel such injuries; and whereas, under such circumstances, the absurdity of issuing commissions, writs, processes and other proceedings in law, and in the courts of justice within this colony, in the name and stile of the king of Great Brit[t]ain, is very apparent, and the tendency it has to keep up ideas inconsistent with the saff[e]ty of this government has given the good people of this colony great uneasiness, —

Be it therefore enacted by the Council and House of Represent[i][a]tives in General Court assembled, and by the authority of the same,

[SECT. 1.] That all civil commissions, writs and precepts for conven[e]ing the general court or assembly, which shall hereafter be made out in this colony, shall be in the stile and name of the Government and People of the Mass[e][a]chusett Bay, in New England; and all commissions, both civil and military, shall be dated in the year of the Christian [a]era, and shall not bear the date of the year of the reign of any king or queen of Great Brit[t]ain.

[SECT. 2.] And that all writs, processes and proceedings in law, and in any of the courts of justice in this colony, which have been

Style of civil commissions, &c:

— their dates.

The regal style expunged, June 1st, 1776.